SYKT PERNIAGAAN UNITED ACES SDN. BHD. & ORS.

v.

MAJLIS PERBANDARAN PETALING JAYA

FEDERAL COURT, KUALA LUMPUR
TAN SRI DATO' ANUAR DATO' ZAINAL ABIDIN CJ (MALAYA)
TAN SRI DATO' MOHD AZMI DATO' KAMARUDDIN FCJ
DATUK WIRA WAN YAHYA PAWAN TEH FCJ
[CIVIL APPEAL NO: 02-728-93]
4 OCTOBER 1996

LOCAL GOVERNMENT: *Streets - Closure of road - Whether ultra vires s. 65 of Local Government Act 1976 - Whether "street" is a "public place".*

LOCAL GOVERNMENT: *Streets - Definition - Whether a "public place" - "Open space" and "open court or open alley" - Whether can have analogous meaning - Distinction - Relevance of accompanying words in definition - Local Government Act 1976, s. 2 - Interpretation.*

LOCAL GOVERNMENT: *Public place - "Parking space" - Whether a thoroughfare or passage allowing traffic to pass - Whether confers public with right of way - Or merely right of access - Whether "street" analogous to "parking space".*

ADMINISTRATIVE LAW: *Exercise of administrative powers - Public rights - Whether can be taken away by implicative language read out from statute - Whether legislative intention must be derived from clear and unambiguous language - Application for certiorari to quash decision of City Council to close road.*

STATUTORY INTERPRETATION: *Canons of construction - Noscitur a sociis - Local Government Act 1976, ss. 2 and 65 - Intention of Legislature.*

WORDS & PHRASES: *"Street" - "Public place" - "Open space" - "Open court or open alley" - "Parking space" - Local Government Act 1976, ss. 2 and 65.*

This was an appeal against the High Court's dismissal of the appellants' application for an order for *certiorari* to quash the Majlis Perbandaran Petaling Jaya's ('the MPPJ') closure of part of Jln SS21/60 ('the said road') in Damansara Utama, Petaling Jaya. In coming to his decision, the learned Judge concluded that a "street" is a "public place" within the meaning of s. 65 of the Local Government Act 1976 ('the Act'). He, therefore, held that the MPPJ was empowered to temporarily close part of the said road under s. 65 of the Act. The partial closure of the said road became necessary after the MPPJ relocated the 'pasar malam' traders/hawkers in Jln SS21/39 to the said road.

Section 65 of the Act provides that a local authority may temporarily close any "public place" vested in it or under its control. Thus, the only issue in the instant appeal was whether a "street" could fall within the definition of a "public place". Counsel for the respondent urged the Court to apply the principle *noscitur a sociis* so as to construe a "public place" to include a "street". Counsel for the appellants disagreed on the ground that the terms "public place" and "street" were clearly defined in the Act and, thus, could not be ambiguous.

Held:

Per Wan Yahya Pawan Teh FCJ (delivering the judgment of the Court):

[1] If there are any words at all to suggest a susceptible analogous meaning between the definitions of "public place" and "street", they are to be found in the words "open space" appearing in the definition of the former, and the words "open court or open alley" appearing in the definition of the latter. In comparing these two phrases, one must appraise the other accompanying phrases which qualify them. In the definition of "public place", the language employed was, "... any open space ... for the use of the public or to which the public shall at any time have access." Whereas, the definition of "street" contains the qualification, "... open court or open alley, used or intended to be used as a means of access to two or more holdings ...".

[1b] It was obvious from the above definitions that the phrases "open space" and "open court or open alley" were intended for two different venues. "Open space" refers to a place for pleasure and recreation for the use of the public at all times. "Open court or open alley" refers to a thoroughfare which is used or intended to be used as a means of access only. Parliament had designated separate and distinctive descriptions to these two differing locations. Consequently, the terms "public place" and "street" could not be regarded as having an analogous meaning.

[1c] A "parking space" is not a thoroughfare or a passage which allows traffic to pass through and over which the public has a right of way. It is simply a place where members of the public can park their vehicles. And if vehicles are parked thereat, there can be no right of way for the passing traffic. In this respect, the Legislature only intended to confer upon the public a right of access, not a right of way. Consequently, a "street" is not analogous to a "parking space" and, therefore, is not a "public place" within the definition of s. 2 of the Act.

[2] The closure of the said road by the MPPJ, albeit intermittent and partial, was *ultra vires* s. 65 of the Act and against the public right of road users.

[2b] Public rights cannot be taken away by mere implicative language read out from a statute. Such an intention must be derived from clear and unambiguous language; it must be shown that the Legislature has so authorised it irrespective of its possible interference with the existing right. To do otherwise is to destroy public rights by a 'side wind'.

[Application allowed; order of High Court set aside; and decision/order of respondent quashed]

[Appeal from High Court Malaya, Kuala Lumpur; Originating Motion No: R8-25-106-89]

***[Bahasa Malaysia** Translation of Headnotes]*

***KERAJAAN TEMPATAN:** Jalan - Penutupan jalan - Samada ultra vires s. 65 Akta Kerajaan Tempatan 1976 - Samada "jalan" adalah suatu "tempat awam".*

***KERAJAAN TEMPATAN:** Jalan - Tafsiran - Samada merupakan "tempat awam" - "Ruang terbuka" dan "ruang lega terbuka atau lorong terbuka" - Samada boleh mempunyai maksud yang seakan-akan sama - Perbezaan - Kepentingan perkataan-perkataan yang menyertai tafsiran - Akta Kerajaan Tempatan 1976 s. 2 - Tafsiran.*

***KERAJAAN TEMPATAN:** Tempat awam - "Ruang meletak kereta" - Samada suatu jalanraya atau laluan yang membenarkan laluan trafik - Samada memberikan orang awam hak laluan - Atau hanya hak akses - Samada "jalan" seakan-akan sama dengan "ruang meletak kereta".*

***UNDANG-UNDANG PENTADBIRAN:** Pelaksanaan kuasa-kuasa pentadbiran - Hak-hak awam - Samada boleh dilucutkan dengan bahasa yang menunjukkan ianya dibaca daripada statut - Samada niat perundangan haruslah diperolehi daripada bahasa yang jelas - Permohonan untuk certiorari bagi membatalkan keputusan Majlis Perbandaran untuk menutup jalan.*

***PENTAFSIRAN BERKANUN:** Kaedah Pembentukan - Noscitur a sociis - Seksyen 2 & 65 Akta Kerajaan Tempatan - Niat Perundangan.*

***PERKATAAN & UNGKAPAN:** "Jalan" - "Tempat Awam" - "Ruang Terbuka" - Ruang Lega Terbuka atau Lorong Terbuka" - Ruang Meletak Kereta" - Seksyen 2 & 65 Akta Kerajaan Tempatan 1976.*

Ini adalah rayuan terhadap penolakan Mahkamah Tinggi terhadap permohonan perayu untuk mendapatkan perintah untuk *certiorari* bagi membatalkan penutupan oleh Majlis Perbandaran Petaling Jaya ('MPPJ tersebut') akan sebahagian daripada Jalan SS21/61 ('jalan tersebut') di Damansara Utama, Petaling Jaya. Dalam mencapai keputusannya, Hakim yang bijaksana

memutuskan bahawa sesebuah "jalan" adalah "tempat awam" dalam maksud s. 65 Akta kerajaan Tempatan 1976 ('Akta tersebut'). Beliau, dengan itu memutuskan bahawa MPPJ telah diberi kuasa untuk menutup buat sementara waktu sebahagian daripada jalan tersebut di bawah s. 65 Akta tersebut. Penutupan sebahagian jalan tersebut menjadi perlu selepas MPPJ menempatkan semula peniaga-peniaga/penjaja-penjaja "pasar malam" di Jalan SS2l/39 ke jalan tersebut.

Seksyen 65 Akta tersebut memperuntukkan bahawa sesebuah pihak berkuasa tempatan boleh menutup buat sementara mana-mana "tempat awam" yang diletakhak padanya atau di bawah kawalannya. Dengan itu, satu-satunya isu dalam rayuan semasa ini adalah samada sesebuah "jalan" boleh terlingkung di bawah tafsiran "tempat awam". Peguam bagi pihak responden menggesa Mahkamah untuk memakai prinsip *noscitur a sociis* bagi mentafsirkan "tempat awam" termasuk "jalan". Peguam bagi pihak perayu tidak bersetuju atas alasan bahawa terma-terma "tempat awam" dan "jalan" jelas didefinasikan dalam Akta tersebut, dan dengan itu, tidak boleh disalahfahami.

Diputuskan:

Oleh Wan Yahya Pawan Teh HMP (menyampaikan penghakiman Mahkamah):

[1] Jika pun terdapat apa-apa perkataan bagi menyarankan satu maksud yang seakan-akan mudah dipengaruhi antara definisi "tempat awam" dan "jalan", ianya akan didapati dalam perkataan "ruang terbuka" yang terdapat dalam definisi yang terdahulu, dan perkataan "ruang lega terbuka atau lorong terbuka" terdapat dalam definisi yang terkemudian. Dalam membezakan kedua-dua ungkapan ini, seseorang mestilah menilai ungkapan-ungkapan lain yang mengiringinya yang mana melayakkannya. Dalam definisi "tempat awam" bahasa yang digunakan adalah "... mana-mana ruang terbuka – bagi kegunaan orang-orang awam atau kepada mana orang awam akan pada bila-bila masa pun mempunyai akses." Sedangkan definisi bagi "jalan" mengandungi kelayakan "... "ruang lega terbuka atau lorong terbuka" yang digunakan atau diniatkan untuk digunakan sebagai akses kepada dua atau lebih pegangan ... ."

[lb] Ianya jelas daripada definisi yang tersebut di atas, bahawa ungkapan-ungkapan "ruang terbuka" dan "ruang lega terbuka atau lorong terbuka" diniatkan untuk dua laluan yang berlainan. "Ruang terbuka" merujuk kepada sesuatu tempat untuk berseronok dan rekreasi bagi kegunaan orang awam setiap masa. "Ruang lega terbuka atau lorong terbuka" merujuk kepada sesuatu jalanraya yang mana digunakan atau bertujuan untuk digunakan sebagai satu cara akses sahaja. Parlimen telah menetapkan penjelasan yang berlainan dan berbeza kepada kedua-dua lokasi yang berbeza ini. Akibatnya, terma-terma "tempat awam" dan "lorong" tidak boleh dianggap sebagai mempunyai maksud yang seakan-akan serupa.

[1c] Sesebuah "tempat meletak kereta" bukannya suatu jalanraya atau laluan yang membenarkan trafik melaluinya dan ke atas mana orang awam mempunyai hak laluan. Ianya hanya sebuah tempat di mana orang-orang awam boleh meletak kenderaan mereka. Dan jika kenderaan diletakkan di situ, tentunya tidak akan terdapat hak laluan bagi trafik yang lalu di situ. Sehubungan dengan hal ini, badan Perundangan tersebut hanya berniat untuk memberikan orang awam hak akses, bukannya hak laluan. Akibatnya, sesuatu "jalan" bukannya seakan-akan serupa dengan "ruang meletak kereta" dan dengan itu, bukannya suatu "tempat awam" dalam maksud definisi s. 2 Akta tersebut.

[2] Penutupan jalan tersebut oleh MPPJ, walaupun sekali sekala dan sebahagiannya, adalah *ultra vires* s. 65 Akta tersebut dan bertentangan dengan hak umum pengguna-pengguna jalanraya.

[2b] Hak awam tidak boleh dilucut hanya dengan bahasa membabitkannya yang dibaca daripada sesebuah statut. Niat sedemikian mestilah diperolehi daripada bahasa yang jelas; ianya mestilah menunjukkan bahawa badan Perundangan tersebut telah memberinya kuasa sedemikian tanpa menghiraukan kemungkinan gangguannya dengan hak sedia ada. Melakukan sebaliknya adalah memusnahkan hak-hak awam melalui "side wind".

[Permohonan dibenarkan; perintah Mahkamah Tinggi diketepikan dan keputusan/perintah responden dibatalkan]

Cases referred to:
Budham Singh v. Nabi Bux AIR [1962] All 43 ***(refd)***
Ganforth (Inspector of Taxes) v. Newsmith Stainless Steel Ltd. [1979] 1 WLR 409 ***(cit)***
Mary Islington v. Barrett, LR9 QB 278 ***(cit)***
Robinson v. Baiton 8 App. Case 798 ***(cit)***
Portsmouth v. Smith 13 QBD 184 ***(cit)***
Davier v. Greenwich [1895] 2 QB 219 ***(cit)***
Ashby v. Tolhurst [1937] 2 KB 242 ***(refd)***
Western Counties Ry v. Windsor [1882] 7 App Cases 178 ***(cit)***
R. v. Strachan [1872] LR QB 463 ***(cit)***

Legislation referred to:
Local Government Act 1976, ss. 2, 63, 65, 67(1)

For the plaintiffs - Joy W. Appukuttan; M/s. Wang Kuo Shing & Co.
For the defendant - Nur Ashikin; M/s. Noorashikin, Alex & Rakan-Rakan

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JUDGMENT

Wan Yahya Pawan Teh FCJ:

In an article appearing in *The Malay Mail* dated 4 July captioned: *Illegal Traders To Move - Hawkers' Filth is Unbearable* - a Majlis Perbandaran b Petaling Jaya (MPPJ) Councillor, while commenting on the state of affairs created by illegal traders, along Jalan SS21/39 Damansara Utama and the relocation of their activities to Jalan SS21/60 was reported to have said that, "The condition here is unbearable, some of them were put in squatter houses amongst the stalls ... . There is no compromise on hygiene, the public health c is at stake."

As a matter of fact the Councillor was merely announcing a matter which had been discussed and decided at a meeting of the Health Committee of the MPPJ held on 26 May 1989.

d The minutes of the meeting as reproduced by the learned trial Judge indicated the MPPJ would provide specific lots to hawkers in Jalan SS8/3 and SS21/60; that the use of push carts as approved by the MPPJ be suggested for use by the hawkers in place of the fixed stalls; and that business be carried out on one half of the road at night (between 5pm & 7am). There were also e several conditions imposed on the would be licensed hawkers.

The real reason behind the MPPJ's drastic action is contained in a preceding paragraph of the minutes which was not cited by the learned High Court Judge but which was made available to us during the appeal in its original form, the text of which reads:

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> 3.2.1 Mesyuarat telah diberitahu bahawa banyak aduan diterima berikutan adanya peniaga-peniaga tanpa lesen di kawasan itu. Peniaga-peniaga tersebut menimbulkan masalah kekotoran, menghalang lalulintas dan menghalang untuk meletak kereta. Keadaan kebersihan di situ juga tidak dapat dikawal. Encik Ho Sai Kong mahukan langkah yang wajar diambil memandangkan g peniaga-peniaga telah berniaga di situ sekian lama. Encik Ho Sai Kong juga berharap masalah ini dapat diselesaikan supaya aduan sedemikian tidak akan berulang lagi.
>
> 3.2.2. Setelah mengkaji dengan teliti, mesyuarat telah bersetuju bahawa pihak Majlis dikehendaki melaksanakan perkara-perkara berikut:
>
> h
>
> (1) Satu kawasan untuk ruang petak disediakan bagi semua penjaja di Jalan SS21/60 dan SS21/39, Petaling Jaya di kawasan berhampiran.
>
> (2) Mencadangkan supaya kereta tolak bergerak digunakan untuk menggantikan gerai tetap yang ada sekarang. Dengan itu, kawalan i kebersihan seperti pembersihan longkang dan sebagainya lebih mudah dilakukan. Rekabentuk kereta tolak hendaklah diluluskan oleh MPPJ.

(3) Penjaja-penjaja hanya dibenarkan berniaga pada waktu malam dan setelah selesai berniaga, kawasan tersebut hendaklah dikosongkan. Dengan ini, jalan tersebut tidak lagi dihalang.

(4) Perniagaan hendaklah dijalankan di sebelah jalan sahaja.

(5) Sekiranya Syarikat Pembinaan See Hoy Chan mempunyai cadangan untuk membina bangunan perniagaan di kawasan tersebut, komplek penjaja hendaklah dibina di situ untuk menampung bilangan penjaja yang ada di kawasan tersebut.

3.2.3 Pengerusi jawatankuasa kecil bersetuju berjumpa dengan pemaju untuk mendapatkan kawasan bagi menampung penjaja-penjaja di situ.

It could be seen from the above minutes that the MPPJ was forced into an uncompromising situation by the hawkers' own misconduct and extremely unhealthy habits. According to the minutes, these hawkers not only created health problems by their unhygienic habits but they also obstructed traffic and prevented motorists from parking vehicles. Thus it was decided to relocate them to the nearby Jalan SS21/60.

Old habits die hard, and so as disclosed in the affidavit and seen in the photographs exhibited in the application for *certiorari* that despite the conditions imposed by the MPPJ the relocated hawkers persisted with their filthy or obstructive habits and it would appear that the MPPJ had only succeeded in moving their problems in Jalan SS21/39 onto the doorsteps of the tenants and occupiers of the premises on Jalan SS21/60.

Anyway, the tenants/occupiers of the relocated site of Jalan SS21/60 and Jalan SS21/62 anticipated the outcome well beforehand and so about 130 of them appealed to the MPPJ to reconsider the proposed plan. There was no evidence to show whether the appeal was considered but evidently the MPPJ went on with the relocation as planned. And so on 14 September 1989, five of these tenants, shopkeepers and occupiers, filed and obtained leave to issue *certiorari.* At the substantive hearing on *certiorari* the application was dismissed with costs.

The hypothesis behind the dismissal was that under s. 65 of the Local Government Act 1976 ('the Act') the MPPJ was empowered to do what it did i.e., to close part of the road between 5pm to 7am In his grounds of judgment, the learned Judge having referred to the definitions of a "public place" and "street" as set out in the Act, arrived at the conclusion that a street is a public place within the meaning of s. 65 of the Act.

For the purpose of our deliberations on this conclusion, we set out hereunder various sections of the Act which were cited during the hearing before this Court and the Court below.

s. 2 "public place" means any open space, parking space, garden recreation and pleasure ground or square, whether enclosed or not set apart or appropriated for the use of the public or to which the public shall at any time have access;

"street" includes any road, square, footway, passage or service road, whether a thoroughfare or not, over which the public have a right of way, and also the way over any bridge, and also includes any road, footway or passage, open court or open alley, used or intended to be used as a means of access to two or more holdings whether the public have a right of way over it or not, and all channels, drains and ditches at the side of any street shall be deemed to be part of such street;

s. 63 A local authority shall have the general control and care of all places within the local authority area which have been or shall be at any time set apart and vested in the local authority for the use of the public or to which the public shall at any time have or have acquired a common right.

s. 65 A local authority may temporarily close any public place vested in it or under its control.

s. 67 (1) A local authority may permanently close or divert any public street or permanently close any public place or alter the boundaries thereof.

Out of the four above-cited sections, we do not consider s. 63 of the Act to be of direct relevance as the provisions therein are only intended to spell out the general authority over care and control of public place by the local authority. As regards s. 67 of the Act, we noted that the conditions as stipulated under that section has not been complied with and in any event, Counsel for the respondent had expressed that he was not relying on that section to support his argument before this Court. Thus, we are left with only one issue in this appeal and that is whether the word "street" can fall under the particular word appearing in the definition of "a public place" or *vice versa* i.e. "public place" can be construed as a "street". Such analysis was not to be found in the judgment. However, in the argument before us Mr. Shahrul Hamid for the respondent, drew our attention to the particular words "parking place" which were used in association with other words to describe the meaning of a public place and with regard thereto urged us to apply the principle of *noscitur a sociis* so as to arrive at the conclusion that a public place would include a street.

Mr. Appukuttan, Counsel for the appellants objected to the line of interpretation as the term "public place" and "street" have been clearly defined in the Act and, therefore, could not be the subject matter of ambiguity. We are inclined to agree with Mr. Appukuttan. In our opinion, if there are any words at all to suggest a susceptible analogous meaning between the definition of "public place" and "street", they are to be found in the words "open space" in the former and the term "open court or open alley" in the latter definitive words. In comparing these two terms, one must not lose sight of the accompanying

phrase which qualifies them. In the definition of "public place" the language employed was:

> any open space ... for the use of the public or to which the public shall at all time have access.

Whereas the definition of "street" contained the following qualification:

> ... open court or open alley used or intended to be used as a means of access to two or more holdings ... .

It is obvious from the above definitions that the term "open space" and "open court or alley" are intended for two different venues. "Open space" refers to a place for pleasure and recreation for the use of the public at all time, whereas "open court or open alley" refers to a thoroughfare intended to be used as a means of access only. Moreover only the adjective "open" appears in both definition and by the choice of the noun "space", "court or alley", Parliament has designated distinctive descriptions to these two differing locations.

We therefore do not regard these two terms as having an analogous meaning. Nevertheless, we shall proceed to consider the respondent's argument founded on the legal maxim.

Noscitur a sociis (it is recognised by its associates) is a well-established and frequently invoked principle of linguistic canons of construction by which the meaning of two or more words which are receptive to similar meaning can be construed by considerations of the company in which the words appear and is associated with. As held in *Budham Singh v. Nabi Bux* AIR [1962] All 43, they take the colour from each other and the more general word is confined to the meaning comparable to the less general one, see also *Ganforth (Inspector of Taxes) v. Newsmith Stainless Steel Ltd.* [1979] 1 WLR 409. Various Latin phrases or maxims, such as, *noscitur ex socio, qui non cognoscitur ex se* - what cannot be known by itself may be known from its associates; *copulatio verborum indicat acceptationem in eodem sensu* - the linking of words suggests treatment of them in the same sense, are indicative of the principle applicable to the rules of interpretation.

In our present appeal the terms "public place" and street" have been defined separately and assigned two different meanings. Although these two terms appear under Part VII of the Act, they are dealt with distinctively in two individual provisions. Even if at the widest stretch of our imagination, we were to proceed on the hypothesis that the term parking place as defined in "public place" is to be identified with the separately defined word "street" and thereafter associated with the general term "public place", we are nevertheless unable to accept such an extravagant deduction.

To begin with, the word "street" has been defined as a public (or private) roadway - See *Mary Islington v. Barrett*, LR9 QB 278. In *Robinson v. Baiton* 8 App. Case 798 it is associated with a highway. In *Portsmouth v. Smith* 13 QBD 184 the word "street" was held to mean a thoroughfare and in *Davier v. Greenwich* [1895] 2 QB 219 it is extended to include a *cul-de-sac*. On one part we would agree that it is a place over which the public have a right of way.

In contrast, the words "parking place" although it can be on part of a road (at least that part of it) is not a thoroughfare or a passage which allows traffic to pass through and over which the public has a right of way. It is simply a place where members of the public can park their vehicles and if vehicles are parked on the place, there can be no right of way for any passing traffic. In *Ashby v. Tolhurst* [1937] 2 KB 242 at 249, Sir Wilfred Greene MR referred to the act of parking a car as follows:

> Parking a car is leaving a car and, I should have thought, nothing else.

Thus a parking place is a place where one is entitled to leave one's car and nothing else to give rise to a right of way, thoroughfare or a passage over which one has the right to pass.

Even if we were to apply the principle of *noscitur a sociis* to the present interpretation, we would have likewise arrived at a similar interpretation. The term "parking place" must be associated with the words which accompany it *viz.* "open space", "garden", "recreation" and "pleasure ground" - all of which as we had mentioned earlier refer to places for pleasure and recreation and not to a thoroughfare. In any event the qualifying sentence to the definition which reads:

> ... set apart or appropriated for the use of the public or to which the public shall have at any time access ... .

confirm our view that the Legislature intended to confer to the public a right of access only and not a right of way.

In our opinion, the word "street" is not analogous to the words "parking place" and, therefore, is not a public place within the definition of s. 2 of the Act.

We look upon the temporary closure of a street, even part of it as in the present case, in order to turn it into a 'pasar malam' which in turn had resulted in obstruction, health hazard and situation clearly detrimental to the residents of premises along Jalan SS21/60, to be *ultra vires* the Local Government Act 1976 and against the public rights of road users. Public rights such as in the present case cannot be taken away by mere implicative language read out from a statute. Such an intention must be derived from clear and unambiguous language. It must be shown that the Legislature has authorised the thing to

be done, irrespective of its possible interference with the existing right - see *Western Counties Ry. v. Windsor etc.* [1882] 7 App Cases 178. To do otherwise is to destroy by a side wind public rights, an act which was not contemplated by the Legislature - see *R. v. Strachan* [1872] LR QB 463.

It may be said that the mere temporary closure of a road is an inconsequential and least detrimental act against the road users; that if there was any harm at all, it is in the form of interference with the peaceful enjoyment of those occupants who reside along Jalan SS21/60. However, this Court thinks that the damage goes further than that. Perhaps it is because we can visualise the sweat of desperation appearing on the faces of the proprietor whose house is about to be engulfed by fire and the firemen who is duty bound to extinguish it or a seriously ill resident and the ambulance driver who is committed to save lives, as they try to battle their way through the familiar pandemonium of the Pasar Malam.

We unanimously hold that the Majlis Perbandaran Petaling Jaya's act in closing that part of Jalan SS21/60, as discussed earlier (be it temporarily or permanently) is *ultra vires* s. 65 of the Local Government Act 1976. We accordingly set aside the order of the High Court, allow the application of the respondent herein and quash the decision, order and/or ruling made by the respondent on 26 May 1989.

The respondent shall pay to the appellants the cost incurred herein and in the Court below.

Reported by Gan Peng Chiang